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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/805,826   | 03/22/2004  | Mark G. Jahnke       | 04,108              | 1489             |
| 32097  | 7590        | 01/27/2006           | EXAMINER            |                  |
| LESAVICH HIGH-TECH LAW GROUP, P.C.<br>SUITE 325<br>39 S. LASALLE STREET<br>CHICAGO, IL 60603 |             |                      | LE, HUYEN D         |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3751                |                  |

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 10/805,826             |  | JAHNKE, MARK G.     |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Huyen Le               |  | 3751                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/17/05&amp;10/11/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7, 8, 10-17, 19, 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanford (5,040,251).

The Hanford reference discloses a water equipment attachment apparatus comprising a rigid hollow vertical tube 21 for extending below or into a selected surface of a pool including a liner 24 made of a flexible material, wherein the rigid hollow vertical tube 21 includes an attachment member 32 extending beyond a top of the rigid hollow vertical tube for engaging the selected surface of the pool underneath the liner 24 and wherein the attachment member 32 includes a plurality attachment receptacles therein; a gasket 26 having an opening therein for engaging the attachment member 32 of the rigid hollow vertical tube 21, wherein the gasket 26 is placed over the liner 24 to engage the attachment member 32 of the rigid hollow vertical tube 21, and wherein the gasket 26 includes a plurality of attachments openings therein; a cap 25 having an opening therein for engaging the gasket 26 and for attaching to the attachment member 32 of the rigid hollow vertical tube 21, wherein the cap 25 is placed over the gasket 26 to engage the attachment member 32 of the rigid hollow vertical tube 21, thereby providing a water-tight connection; a plurality of attachment means 27 for attaching the cap 25

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and the gasket 26 to the attachment member 32 of the rigid hollow vertical tube 21 through the plurality of attachment openings in the cap 25 and the gasket 26 and into the plurality of attachment receptacles in the attachment member 32; an horizontal attachment means 33 extending from a first side (left side) and a second side (right side) of the rigid hollow vertical tube 21 for attaching the rigid vertical tube 21 to a selected surface of a pool.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanford (5,040,251) in view of Dahowski (4,589,237).

Although Hanford does not disclose the water equipment attachment apparatus comprising horizontal means extending through the rigid hollow vertical tube in predrilled holes, attention is directed to the Dahowski reference which discloses a horizontal attachment means 54 extending from a tube in predrilled holes 40 (or 34, 38) for providing a footing when buried in concrete.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a horizontal attachment extending through the vertical tube in predrilled holes in the Hanford apparatus in view of the teaching of the Dahowski reference for providing a more secure footing in concrete.

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5. Claims 9, 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanford (5,040,251) in view of Cornelius (5,325,644).

Although the Hanford reference does not specifically disclose the attachment apparatus mounted in a pool that includes a plurality of attachable panels, attention is directed to a pool having a plurality of attachable panels.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the Hanford attachment apparatus in a pool having a plurality of attachable wall panels in view of the teaching of Cornelius reference, wherein doing so would be a matter of obvious design choice.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bartolucci and McCaron show anchoring systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 23, 2006

  
Huyen Le  
Examiner  
Art Unit 3751